

ABRA  
rec'd 5/29/02  
#11817

## VOLUNTARY AGREEMENT

**THIS VOLUNTARY AGREEMENT** ("Agreement") made by and between Kearney's Grocery ("Applicant") and Advisory Neighborhood Commission ("ANC 5C") ("Protestant");

### **WITNESSETH**

**WHEREAS**, Applicant has applied for renewal of its retailer's license Class B for premises located at 90 "O" Street, N.W., Washington, D.C.;

**WHEREAS** Protestant has protested the renewal of Applicant's license; and

**WHEREAS**, the parties have agreed to enter into this Agreement and to request the Alcohol Beverage Control Board to approve the Applicant's application conditioned upon Applicant's compliance with the terms of this written Agreement.

**NOW, THEREFORE**, in consideration of the recitals set forth above and the mutual covenants and conditions set forth below, the parties agree as follows:

1. **Recitals Incorporated.** The recitals set forth above are incorporated herein by reference.
2. **Compliance With Law.** Applicant shall comply with all laws and regulations governing the operation of the market, including laws and regulations governing the Class B license to which this agreement applies, as applied for and approved by the District of Columbia in the name of Applicant.
3. **Conduct of Business Operations.**
  - A. **Cleanliness of Premises and Business Environment.** Applicant shall take all reasonable measures to assure that that the immediate environs of the establishment are kept free of litter and debris. "Immediate environs" is defined in D.C.M.R. § 720.2 as including: "all property on which the premises are located; all property used by the licensee to conduct its business, whether part of the premises or not, including parking lots and the portion of alleys, sidewalks, or other public property immediately adjacent to the premises or adjacent to the property used by the licensee to conduct its business." Applicant shall clean the sidewalk in front of its premises up to and including the curb, and remove trash from the alley behind the premises, by 10:00 a.m. and once again within one hour before closing on days the establishment is open.

Applicant shall maintain trash, garbage and recycling material storage facilities in which all containers have lids which are kept securely closed at all times, which containers shall be sufficient to contain all trash, garbage and recycle materials generated by the establishment, and to assure that trash, garbage, and recycle materials are removed regularly.

**B. Loitering.** The parties recognize that loitering in and around the establishment has been a significant problem in the past, and that the peace, order and quiet of the neighborhood will continue to be unreasonably affected if it is not reasonably controlled in the future. Applicant shall take all reasonable measures to discourage loitering within, in front and in the rear of the establishment. If the activities identified herein (or other action taken by Applicant) fail to reasonably prevent loitering and drug sales on its premises, Applicant may be required to hire a licensed security guard to prevent such illegal conduct.

**C. Alcohol Abuse Prevention.** Applicant shall not, directly or indirectly, knowingly sell or deliver alcoholic beverages to any intoxicated person, or to any person of intemperate habits, or to any person who appears to be intoxicated, and will cooperate with the Metropolitan Police and health and social service agencies to identify such persons. A person of intemperate habits shall be defined as any person arrested or cited for alcohol-related offenses by the Metropolitan Police for any alcohol-related crime three times or more in any one year and who has been so identified to Applicant by the Metropolitan Police Department by giving a photo and name to Applicant. Applicant shall not sell or deliver alcoholic beverages to anyone accompanying a person who has been denied service if there is an apparent attempt to deliver the alcoholic beverage to the person who has been denied service. Applicant shall not sell or deliver alcoholic beverages to any person or persons under the age of 21, and will prominently display the fact that such sales are prohibited and that patrons are subject to being asked to produce valid proof of age. These specific sale restrictions shall be posted on signs in the establishment.

**D. Renovation and Signage at Premises.** Applicant shall not install signs on the front window so as to obstruct visibility into the establishment. Applicant shall repaint the storefront to a non-high gloss color. Applicant shall not advertise alcoholic beverages on the exterior walls of the establishment. Applicant shall generally maintain the property in commercially reasonable condition and promptly remove or paint over any graffiti written on the exterior walls of the establishment.

**3. Limitation on Non-Alcohol Retail Items.** Applicant shall not provide "go-cups" (as defined in DCMR § 709.7) to customers. Applicant may sell disposable cups to customers unless they are in pre-packaged containing no less than 12 cups. Applicant shall only sell or provide ice to customers in pre-packaged forms containing no less than 5 pounds. Applicant shall not sell single cigarettes, cigarette-rolling papers, plastic bags smaller than sandwich size or in non-pre-packaged form, or any other form of drug paraphernalia.

Applicant shall not sell single cigarettes, cigarette-rolling papers, plastic bags smaller than sandwich size or in non-pre-packaged form, or any other form of drug paraphernalia.

4. **Cooperation with Community.** Applicant shall reasonably cooperate with Protestant in efforts to alleviate alcohol abuse problems, illegal drug activity and loitering by, among other things, participating in community meetings and programs as the circumstances may warrant. Applicant shall reasonably cooperate with Protestant to improve the overall environment in an immediately around the establishment to make it a more pleasant, safe area for residents, customers and businesses.

5. **Restriction on Hours of Alcoholic Beverage Sales.** Applicant shall sell alcoholic beverages only between the hours of 9:00 a.m. and 10:00 p.m.

6. **Participation in ANC Meetings.** In order to maintain an open dialogue with the community and cooperatively address and control any problems associated with its operations, Applicant, upon reasonable notice from the ANC, shall send a representative of the establishment to a meeting(s) of the ANC to discuss and find ways to reasonably resolve such problems.

7. **License Ownership.** Applicant agrees to abide by all ABC regulations regarding the ownership and transfer of the license including, without limitation, providing legal notice of any proposed transfer or substantial change in operations to the Advisory Neighborhood Commission.

8. **Binding Effect.** This Voluntary Agreement shall be binding upon and enforceable against the successors and assigns of Applicant.

9. **Notices.** In the event of a violation of the provisions of this Voluntary Agreement, Applicant shall be notified in writing by the person alleging such violation and given an opportunity to cure such violation within thirty (30) days thereafter before action against Applicant on the basis of such violation may be undertaken. A material violation of this Agreement or its ABC license by Applicant which has not been corrected after such thirty (30) days' notice shall constitute cause for seeking a Show Cause Order from the ABC Board. Any notices required to be made under this Agreement shall be in writing and mailed by certified mail, return receipt requested, postage prepaid, or hand-delivered, to the other parties to this Agreement. Notice is deemed to be received upon mailing. Notice is to be given as follows:

(a) If to Applicant, to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) If to ANC 5C, Care of:

Advisory Neighborhood Commission 5C, Chairman  
680 Rhode Island Avenue, NE, Suite H-4, Washington, DC 20002

Applicant may change the notice addresses listed above by written notice to the signatories hereto at the addresses listed below their signatures. Failure to give notice shall not constitute waiver or acquiescence to the violation, but notice shall be a prerequisite to the filing of a complaint with the Alcohol Beverage Control Board.

10. **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

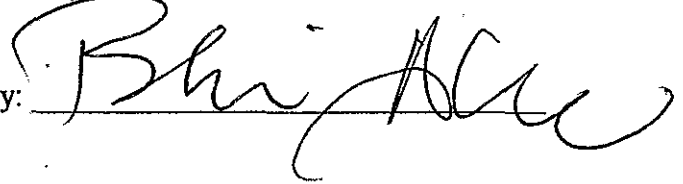
WITNESS:

\_\_\_\_\_

APPLICANT:

Kearney's Market

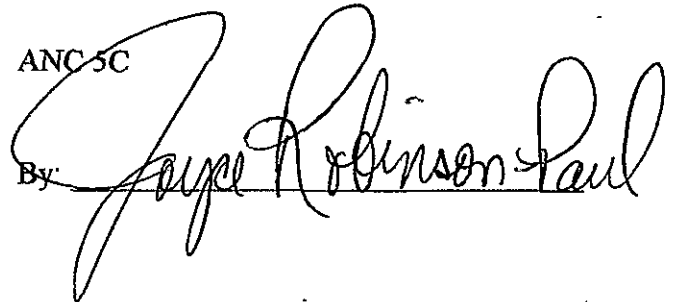
By:



PROTESTANT:

ANC 5C

By:



**In the Matter of:**

Washington, D.C.

2002-214

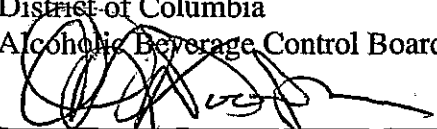
The official records of the Board reflect that the parties have reached an agreement that has been reduced to writing and has been properly executed and filed with the Board. Pursuant to the agreement received by the Board on May 29, 2002, the protestant has agreed to withdraw the opposition, provided, however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the agreement.

Tsehai Abraha  
t/a Kearney's Market  
Page two

Accordingly, it is this 26<sup>th</sup> day of June 2002, **ORDERED** that:

1. The opposition of James D. Berry, Jr., Chair, on behalf of the Advisory Neighborhood Commission 5C, is **WITHDRAWN**;
2. The application of Tsehai Abraha t/a Kearney's Market for a retailer's class B (renewal) license located at 90 O Street, N.W., Washington, D.C. is **GRANTED**;
3. The above-referenced agreement between the parties, is **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Protestant and the Applicant.

District of Columbia  
Alcoholic Beverage Control Board

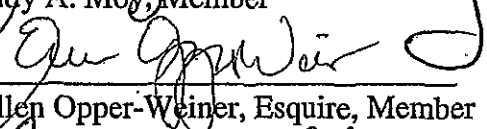
  
Roderic L. Woodson, Esquire, Chair

  
Vera Abbott, Member

  
Charles Burger, Member

  
Laurie Collins, Member

  
Judy A. Moy, Member

  
Ellen Oppenheimer, Esquire, Member

  
Audrey E. Thompson, Member

# 11817

## COOPERATIVE AGREEMENT BETWEEN KEARNEY'S MARKET AND ANC 5C

**WHEREAS** Kearney's Market (licensee) has applied to renew an Alcoholic Beverage Control (ABC) Retail Class B license for the business trading as Kearney's Market located at 90 O Streets, NW Washington, DC 20001; and

**WHEREAS** licensee and ANC 5C have discussed the concerns of the neighborhood and have reached an understanding relating to the operation of the licensee and cooperation between the licensee and ANC 5C.

**NOW, THEREFORE**, in consideration of the agreements by licensee set forth herein, ANC 5C agrees to refrain from filing a protest to the renewal of the license and licensee agrees to comply fully with the terms of this cooperative agreement. Licensee agrees:

- 17 point
- ✓ A. To comply with all laws and regulations governing the operation of the establishment at 90 O Street, NW, in Washington, D.C., including the laws and regulations governing the Class B (retail) license to which this cooperative agreement applies, as applied for and approved by the District of Columbia in the name of the licensee.
  - ✓ B. That the licensee and its officers and employees will cooperate with the Advisory Neighborhood Commission 5C ("ANC") to address any alleged violation of the laws and regulations referred to in Paragraph A above, and in any request that the appropriate enforcement agency investigate an alleged violation.
  - ✓ C. That licensee will not sell or deliver alcohol after ABC regulated hours.
  - ✓ D. That licensee will keep public space surrounding the business free of debris and trash.
  - ✓ E. That licensee will take reasonable measures to ensure that the immediate environs of the location are kept free of litter and debris. The "immediate environs" is defined in Section 720.2 of the ABC regulations as including "all property on which the premises are located; all property used by the licensee to conduct business, whether part of the premises or not, including parking lots and the portions of alleys, sidewalks, or other public property immediately adjacent to the premises or adjacent to the property used by the licensee to conduct business."
  - ✓ F. That licensee will prohibit loitering in front of the business and take whatever actions are necessary to enforce such prohibition.
  - ✓ G. That licensee will not provide "go-cups" to customers. A "go-cup is defined in Section 709.7 of the ABC regulations as a "drinking utensil provided at no charge or a nominal charge to customers for the purpose of consuming [alcoholic] beverages."
  - ✓ H. That licensee will not sell or provide miniature bags of ice to customers.
  - ✓ I. That licensee will not sell single cigarettes or drug paraphernalia to customers.

Initials: \_\_\_\_\_

- J. That licensee will not advertise alcoholic beverages on the exterior walls of the property used by the licensee to conduct business.
- K. That licensee will promptly remove or paint over any graffiti written on the exterior walls of the property used by the licensee to conduct business.
- L. That licensee will post signs in English advising its customers that the licensee will not sell to intoxicated persons.
- M. That licensee will not sell or deliver alcohol in any form to any intoxicated person, any person who appears to be intoxicated, or any person the licensee knows abuses alcohol.
- N. That licensee will not sell or deliver alcohol in any form to any person under 21 years of age.
- O. That licensee will take all precautions to avoid the sale of alcohol in any form to anyone accompanying a person who has been denied service if it appears that an attempt is being made to buy alcohol for the person who has been denied service.
- P. That in the event licensee decides to sell or transfer its business, licensee will provide the community at least ninety (90) days notice of any intention to place the business on the market.
- Q. That licensee will assure that all employees of licensee adhere to the provisions of this agreement, particularly with respect to the sale of alcohol in any form.

The provisions of this Cooperative Agreement shall become part of the conditions of the ABC license and shall remain in force upon renewal or transfer of the liquor license. Violations of the Cooperative Agreement by the Licensee, or the Licensee's failure to implement the measures called for in this Cooperative Agreement, shall be just cause by the ABC Board to immediately suspend or revoke the ABC license of the establishment.

AGREED:

For Kearney's Market:

Bahi Ali  
\_\_\_\_\_  
\_\_\_\_\_

Date:

Feb 2/01 - TA  
October 20/00

For the Advisory Neighborhood Commission:

Jaime Robinson Paul  
\_\_\_\_\_  
\_\_\_\_\_

Date:

Feb 2, 2001



**BEFORE  
THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**In the Matter of :**

Tsehai Abraha  
t/a Kearney's Grocery

Application for a Retailer's Class  
B – renewal application  
at premises

90 O Street, N.W.  
Washington, D.C.

Case no. 11817-00051P

**James D. Berry, Jr., Chairperson, on behalf of the Advisory Neighborhood Commission  
5C, Protestant**

**Tsehai Abraha, Applicant**

**BEFORE: Roderic L. Woodson, Esquire, Chair  
Vera Abbott, Member  
Charles Burger, Member  
Laurie Collins, Member  
Judy Moy, Member  
Ellen Oppen-Weiner, Esquire, Member  
Audrey E. Thompson, Member**

**ORDER ON WITHDRAWN PROTEST AND VOLUNTARY AGREEMENT**

This matter, having been protested, came before the Board for public hearing on April 19, 2000, in accordance with D.C. Code Section 25-115(c)(5)(1999 Supp.), providing for the protestants to be heard. James D. Berry, Jr., Chairperson, on behalf of the Advisory Neighborhood Commission 5C, filed a timely protest letter.


The official records of the Board reflect that the parties have now reached an agreement that has been reduced to writing, and has been properly executed and filed with the Board. Pursuant to the agreement dated February 2, 2001, the protestant has agreed to withdraw the opposition, provided however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the Agreement.

Tsehai Abraha  
t/a Kearney's Grocery  
Page two

Accordingly, it is this 24 day of March 2001, **ORDERED** that:

1. The opposition of James D. Berry, Jr., Chairperson, on behalf of the Advisory Neighborhood Commission 5C, be, and the same hereby, is **WITHDRAWN**;
2. The application of Tsehai Abraha t/a Kearney's Grocery for a retailer's class B license (renewal), located at 90 O Street, N.W., Washington, D.C., be, and the same hereby, is **GRANTED**;
3. The above-referenced agreement between the parties, be, and the same hereby, is **INCORPORATED** as part of this **ORDER**, and:
4. Copies of this Order shall be sent to the Protestant and the Applicant.

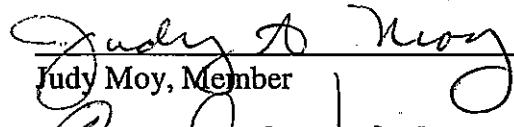
District of Columbia  
Alcoholic Beverage Control Board

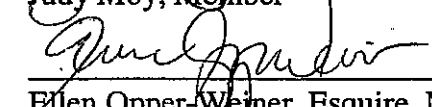
  
Roderic L. Woodson, Esquire, Chair

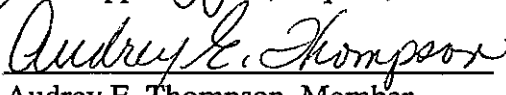
  
Vera Abbott, Member

Charles Burger, Member

  
Laurie Collins, Member

  
Judy Moy, Member

  
Ellen Oppenheimer, Esquire, Member

  
Audrey E. Thompson, Member